In the High Court of Punjab and Haryana, at Chandigarh.

R.S.A. No. 3230 of 2003

Date of Decision: 6.11.2007

Savitri Devi

…Appellant

Versus

Haryana State Agriculture Marketing Board, Panchkula and Another.

…Respondents

CORAM: HON'BLE MR.JUSTICE RAJESH BINDAL

Present: Mr.Atul Lakhanpal, Advocate
for the appellant.

Mr.Suvir Sehgal, Advocate
for the respondents.

RAJESH BINDAL, J.

The plaintiff is in second appeal before this Court against the concurrent findings of fact recorded by both the Courts below, whereby the suit filed by her, for declaration to the effect that she had become owner of the property by way of adverse possession, was dismissed.

At the very outset, learned counsel for the respondent cited a judgement of this Court in ***Bhim Singh and other v. Zile Singh and others 2006(3) R.C.R. (Civil) 97*** taking a view that a person in adverse possession of an immovable property cannot file a suit for declaration claiming ownership thereof as the same can only be raised in defence in a suit for possession filed by other party. This being the legal position, the submission is that when the suit itself was not maintainable no question of entertainment of appeal arises. The proposition of law laid down by this Court in ***Bhim Singh's case***

(supra) could not be disputed by learned counsel for the appellant. Once the suit filed by the appellant/plaintiff itself was not maintainable, no question of entertainment of present appeal arises

Accordingly, I do not find any substantial question of law arises in the present appeal and the same is dismissed.

(Rajesh Bindal)
Judge

November 6, 2007
"DK"